THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.17144 &18168 of 2002

Dated 18-07-2007

W.P.No.17144 of 2002

Between:

M/s.Bhaskar Delux Theatre, Guntur rep. By its Managing Director.

..... PETITIONER

AND

Govt. of A.P. rep. By its Principal Secretary Home, Secretariat, Hyderabad & others.

.....RESPONDENT

W.P.No.18168 of 2002

Sri Sai Ram 70mm Theatre, Maalkajgiri, Hyderabad.

…..PETITIONER

The Joint Collector & Licensing Authority (Cinema), R.R. District, Hyderabad & another.

……

RESPONDNET

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION Nos.17144 &18168 of 2002

COMMON ORDER:

Questioning the memo dated 03-05-2002 issued by the first respondent, the proceedings of the third respondent dated 19-08-2002 and proceedings of the second respondent dated 19-02-2001 respectively as illegal, arbitrary and contrary to the judgments of this Court and the Supreme Court, these writ petitions are filed.

Both Sri M.S.Prasad, learned counsel for the petitioner in W.P.No.17144 of 2002 and Sri K.Durga Prasad, learned counsel for the petitioner in W.P.No.18168 of 2002, would submit that the subject matter of these writ petitions are covered by the orders passed in W.A.No.298 of 2001 and batch dated 21-08-2001, wherein the Division Bench had held that the liability of the cinema theatres had to be determined on the resolution of the dispute whether short films had been supplied to them or not, that such a dispute had to be determined in an appropriate forum and not in writ proceedings and that the State could not refuse to renew the cinematograph licences of the appellants unless conditions precedent thereto were satisfied.

A counter affidavit is filed on behalf of the first respondent in W.P.No.17144 of 2002 wherein the aforesaid Division Bench judgment has been extracted. Respondents would submit that the licencing authorities in the State had ensured that the Approved Film Certificates from the Films Division were produced by the management of the theatres for grant/renewal of “B” form licence.

The question, which arose before the Division Bench, was

whether condition No.42, which required the licensee to comply with such directions as the Government may, by general or special order, give as to the manner in which approved films shall be exhibited in the course of any performance, was mandatory or directory. The Division Bench observed that the condition was directory, that if short films had been supplied to the theatres they would, irrespective of the legal position, be liable to pay the amount to the Films Division even if the conditions of the licence were found to be invalid and that they would also be liable in terms of Sections 65 and 70 of the Indian Contract Act. The Division Bench, however, observed that the liability had to be determined on the resolution of the dispute whether short films had been supplied or not.

In the present case, the petitioner disputes that short films were ever supplied to them and since the order of the Division Bench required such disputes to be determined before the appropriate forum and not in writ proceedings, it was not open to the State to renew the cinematograph licences.

Both these writ petitions are disposed of in terms of and in accordance with the aforesaid order of the Division Bench in W.A.No.298 of 2001 and batch dated 21-08-2001. No costs.

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18-07-2007

usd